

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

U.S. DISTRICT COURT
EASTERN DISTRICT WI
FILED

WILLIAM FEEHAN,
And DERRICK VAN ORDEN,

2020 DEC -4 P 12:34

Plaintiff

CLERK OF COURT

Case No. 2:20-cv-1771

v.

Wisconsin Elections Commission, *et al.*,¹

Defendants

**INTERVENOR-DEFENDANT CIVIL L. R. 7(H) EXPEDITED NONDISPOSITIVE
MOTION TO INTERVENE**

I am seeking to participate as an intervening defendant in the above-captioned lawsuit pursuant to Federal Rule of Civil Procedure 24. I have a right under Rule 24(a)(2) to intervene as the outcome of this case directly impacts my constitutional right to vote. In the alternative, I seek permissive intervention pursuant to Rule 24(b). I am requesting this court rule on this motion in an expedited manner pursuant to Local Civil Rule 7(h).

I previously filed a Motion to Intervene² along with an accompanying brief and proposed answer the original complaint. At the time of filing that motion, no motions seeking an expedited ruling had been filed³. Additionally, the court indicated it was going to await the defendants' opposition brief⁴ which the plaintiffs had 21 days to file. As a result, it was not necessary at that time for my motion to intervene be heard on an expedited basis pursuant to Civil L. R. 7(h).

¹ I note that the William Feehan filed an amended complaint removing Derrick Van Orden from the case and used a caption with only William Feehan. However, I was unable to locate a motion or order amending the case caption nor any local rules that automatically amend the caption upon filing of an amended complaint. Therefore, I have kept the case caption as it was originally filed. See Dkt. No. 9 for the Amended Complaint

² See Dkt. No. 14 and Dkt. No. 15.

³ See Dkt. No. 6 "Order Regarding Amended Motion for Injunctive Relief (Dkt. No. 6).

⁴ See Dkt. No. 6 "Order Regarding Amended Motion for Injunctive Relief (Dkt. No. 6).

However, plaintiff has since filed an expedited non-dispositive motion for a temporary restraining order and preliminary injunction⁵. Further that motion contains a proposed briefing schedule that would require responses and replies be filed by Dec. 4th and Dec. 5th respectively. At the time of drafting this motion, it is Dec 3rd and by the time this motion reaches the court it will already be Dec 4th. As a result, it has now become critically important that the court issue a ruling on this motion to intervene in an expedited manner pursuant to Local Civil Rule 7(h).

I seek to protect my legally protected constitutional rights to have my vote counted without delaying this case. If this motion to intervene is granted, I would ask to have until Dec. 5th at 8pm to file an Intervenor-Defendants opposition brief. Due to the court being closed at that time and needing to file outside of the ECF⁶ I request permission to submit that brief via e-mail.

I sent copies of my motion to intervene, brief in support of motion to intervene and proposed answer to the plaintiffs' attorney at Sidney@federalappeals.com and miked@michaelddeanllc.com on December 2nd at 6:55pm. On December 3rd I sent paper copies of these documents to the defendants and plaintiff's attorneys via US Mail. When the attorneys for the defendants entered their appearance in this case, I sent electronic copies to Attorney Snyder at rsnyder@staffordlaw.com, Attorney Mandell at JMandel@staffordlaw.com and Attorney Murphy at Murphysm@doj.state.wi.us at 1:11pm on December 3rd.

In an e-mail sent to Attorney Murphy, Mandell, Snyder, Dean and Powell at 1:11pm on December 3rd, I asked the attorneys if they would be opposing my motion to intervene. I further asked if they would be opposed to me joining the briefing schedule as I outlined above if this

⁵ While the "PLAINTIFF'S AMENDED MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION TO BE CONSIDERED IN AN EXPEDITED MANNER" does not explicitly reference L. R. 7(h) and does not completely conform to the requirements of L. R. 7(h)(2), it appears to be the intent of the plaintiff that this motion be treated as such.

⁶ I am unable to use the ECF system as I am not admitted to practice before the Eastern District of Wisconsin Federal Court.

motion is granted. As of 4:45pm I had received no e-mail response. I then called Attorneys Mandell, Murphy, Dean and Powell at the phone numbers listed in the filings. Attorney Mandell indicated that Governor Tony Evers will not be objecting to my intervention. I left voicemail messages for the other three attorneys but as of 5:58pm I have received no further response. Due to the need to overnight this document, I am unable to wait longer for a response from those attorneys.

Therefore, I request that the Court grant me permission to intervene in the above-captioned matter and enter such an order by 5pm on Friday December 4th. Further, if the court follows the plaintiffs proposed briefing schedule, I request the court to permit me to file, via e-mail, an Intervenor-Defendants opposition brief by 8pm on Saturday December 5th.

Dated: December 3rd, 2020

Respectfully submitted,



James Gesbeck (SBN #1079800)

608 335-2569

James@Gesbeck.Com

9302 Harvest Moon Lane

Verona, WI 53593

N.B.: Not admitted to practice before the United States District Court for the Eastern District of Wisconsin

I hereby swear that all the factual allegations contained in this motion are true and correct to the best of my personal knowledge and upon my review of the ECF filing system records which I believe to be accurate as they are official court records.

James H Gesbeck

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Defendants

CERTIFICATE OF SERVICE

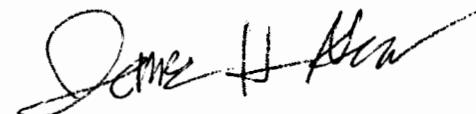
I, James Gesbeck, certify that I have sent a copy of my Intervenor-Defendant Civil L. R. 7(h) Expedited Nondispositive Motion to Intervene to parties as follows below. I further certify I called an attorney for each party and either spoke with them or left them a voicemail indicating I would be filing this motion and seeking an expedited ruling:

Attorneys for Plaintiff William Feehan and Derrick Van Orden:
miked@michaeldeanllc.com, sidney@federalappeals.com

Attorney for Defendant Wisconsin Election Commission and members:
miked@michaeldeanllc.com

Attorneys for Governor Tony Evers
rnsyder@staffordlaw.com, jmandell@staffordlaw.com

Respectfully submitted,



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